

July 26, 2010 (draft)

Mr. Kevin Neyland  
Deputy Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street, N.W.  
Washington, DC 20503

**RE: Toxics Release Inventory (“TRI”) Articles Exemption Clarification  
Proposed Rule; Docket Id No. EPA-HQ-TRI-2009-602**

Dear Mr. Neyland:

Thank you for meeting with our informal coalition of industries concerned about the above-referenced Environmental Protection Agency (“EPA”) proposal to clarify Emergency Planning and Community Right to Know Act (“EPCRA”) reporting obligations. The organizations listed below are unable to attend the July 26, 2010 meeting at your offices. We are writing to express the concerns we share with our colleagues who will meet with you over EPA’s attempt to effectively repeal the Toxic Chemical Release Inventory (“TRI”) article exemption.

Although billed as an effort to clarify how the articles exemption applies to the treated wood industry, EPA’s proposed interpretation would have broad applicability, and far-reaching and unintended consequences for a host of industries. The Agency’s position appears to be that emissions of EPCRA 313 listed chemicals from finished goods in storage are reportable to the TRI. This position contradicts the plain language of the article exemption to TRI reporting at 40 C.F.R. § 372.38(b).

The article exemption is a fundamental scoping provision of the TRI Program which has long acted to set reporting parameters and reconcile competing societal interests: protecting the public’s right-to-know while minimizing the reporting burden on industries that produce finished goods, most of which are small businesses. Based on some of the practical examples our colleagues will share with you, however, it should be evident that EPA has not considered many of the broad policy implications or burdens on industry stemming from its proposed approach. We are particularly concerned that EPA seeks to equate the statutory concept of processing a toxic chemical to manufacture an article, with processing or use of the article after manufacture. We can conceive of very few, if any, products that would benefit from the article exemption under this view.

This clarification, if promulgated, would apply broadly across many industry sectors and negate the articles exemption. If emissions from finished goods in storage are now to be reported to the TRI, then such consequential national reporting obligations should not be considered or imposed in the manner chosen by EPA. As currently drafted, EPA’s clarification conflicts with the plain language of its regulation and should be withdrawn.

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Cordially yours,

**American Brush Manufacturers Association (ABMA)**

David C. Parr  
Executive Director

**American Home Furnishings Alliance (AHFA)**

Bill Perdue  
Vice President, Environmental Health & Safety – Standards

**American Lighting Association**

Richard D. Upton  
President/CEO

**Association of Independent Corrugated Converters (AICC)**

A. Steven Young  
President

**Industrial Fasteners Institute (IFI)**

Rob Harris  
Managing Director

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C. James Trombino  
Executive Director/CEO

**National Tooling and Machining Association**

Robert Akers  
Chief Operating Officer

**Precision Metalforming Association**

William Gaskin  
President

**Responsible Industry for a Sound Environment (RISE)**

Allen James  
President

cc: James Laity, Office of Information and Regulatory Affairs  
Kevin Bromberg, Small Business Administration